

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

PREAMBLE

- | | |
|---|--|
| 1. <u>Sections Affected</u>
R4-30-201
R4-30-202
R4-30-202
R4-30-203
R4-30-203
R4-30-204
R4-30-206
R4-30-207
R4-30-209
R4-30-210
R4-30-211 | <u>Rulemaking Action</u>
Amend
Renumber
Amend
Renumber
Amend
Amend
Repeal
Renumber
New Section
New Section
New Section |
|---|--|
- 2. The specific authority for the rulemaking, including both the authorizing statute and the statutes the rules are implementing:**
Authorizing Statute: A.R.S. § 32-106(A)(1), (9)
Implementing Statute: A.R.S. §§ 32-106(A)(3), (4), (8), and (B); A.R.S. §§ 41-1072 through 41-1077
- 3. The effective date of the rule:**
November 10, 1998
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 4 A.A.R. 597, February 27, 1998.
Notice of Proposed Rulemaking: 4 A.A.R. 1330, June 12, 1998.
- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: LaVern Douglas
Address: Board of Technical Registration
1951 West Camelback Road, Suite 250
Phoenix, Arizona 85015
Telephone: (602) 255-4053
Fax: (602) 255-4051
- 6. An explanation of the rule, including the agency's reason for initiating the rule:**
The rule lists application requirements and time-frames for professional registration.
- 7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and or supporting material:**
None.
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
- 9. The summary of the economic, small business, and consumer impact:**
There is no anticipated impact from this change on small business or consumers.
- 10. A description of the changes between the proposed rule, including supplemental notices and final rule (if applicable):**
Except for minor grammatical changes, there were no changes between the proposed rule and the final rule.

Arizona Administrative Register
Notices of Final Rulemaking

11. A summary of the principal comments and the agency response to them:
The Board received no comments on the rule.
12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
13. Incorporations by reference and their location in the rules:
None.
14. Was this rule previously adopted as an emergency rule?
No.
15. The full text of the rules follows:

ARTICLE 2. REGISTRATION PROVISIONS

Section

- R4-30-201. Professional Registration
R4-30-202. In-training Designation
~~R4-30-207~~R4-30-203. Registration without examination Waiver of Examination
R4-30-204. Examinations
R4-30-206. ~~Admission to the Professional Examinations, Out of State Candidates with In-training Status~~
R4-30-209. Time-frames for Professional Registration or In-training Designation
R4-30-210. Time-frames for Approval to Sit for the Professional or In-training Examination
R4-30-211. Time-frames for Waiver of the Professional or In-training Examination

ARTICLE 2. REGISTRATION PROVISIONS

R4-30-201. ~~General application requirements~~ Professional Registration

- A.** A candidate for professional registration shall submit the following application package to the Board:
1. An original and 1 copy of a completed application;
 2. Evidence of successful completion of the current national professional examination or waiver of the examination pursuant to A.R.S. § 32-126 and R4-30-203 in the category, and branch if applicable, for which registration is sought. Candidates shall arrange to have their examination results sent directly to the Board from the applicable testing agency holding the examination results;
 3. The information set forth in subsections (B) (1) through (15); and
 4. The applicable fee.
- A.B.** ~~Unless exempted by Subsection B. Of this Rule, candidates shall complete a standard application form (see Appendix A-Application-Ling-Form) and:~~ A candidate who wishes to sit for a professional examination shall submit to the Board an original and 1 copy of a completed application for professional examination, and provide the following information:
1. ~~Provide two copies of the application form (original and one copy);~~
 1. Name, residence address, e-mail address, residence telephone number, and residence facsimile number of the candidate;
 2. Date of birth and social security number of the candidate;
 3. Citizenship or legal residence;
 4. Category, and branch of engineering if applicable, for which the candidate is seeking registration;
 5. A detailed explanatory statement, regarding:
 - a. Any disciplinary action, including suspension and revocation, taken by any other state or jurisdiction

- on any registration or license held by the candidate in any other state or jurisdiction;
 - b. Refusal of registration or license by any other state or jurisdiction;
 - c. Any pending disciplinary action in any other state or jurisdiction on any registration or license held by the candidate;
 - d. Any alias or other name used by the candidate; and
 - e. Any conviction for a felony or misdemeanor, other than a minor traffic violation.
6. Jurisdiction in which any other registration or license is held, type of registration, number, year granted, how registration was granted (that is, by examination, education, experience, or reciprocity), and the number of examination hours taken by the candidate;
 7. Name of the state or jurisdiction, the type of registration the candidate is seeking, and the current status of any application for registration pending in any other state or jurisdiction;
 8. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university, or educational institution that the candidate attended;
 - 2-9. ~~Arrange to have~~ Certified transcripts sent directly to the Board from the registrar of the each college, university, or educational institution that the candidate attended to the Board;
 10. Name, current address, telephone number, and facsimile number of the candidate's current and former employers in the category for which registration is sought; dates of employment; candidate's title; description of the work performed; and number of hours worked per week;
 - 3-11. Names and addresses of immediate supervisors in past and present employment in the category for which registration is sought. Candidates who have been working in the profession category in for which registration is sought for 10 or more years shall provide the names and addresses of all immediate supervisors during the most recent 10-year period. If a candidate cannot supply the names and addresses of supervisors for at least 3 engagements, the candidate shall provide to the Board a written, sworn statement explaining the inability to provide this information, and the names and addresses of 3 additional references, unrelated to the candidate, at least 2 of whom are registered in the category for which registration is sought;
 4. ~~If a candidate cannot supply the names and address of supervisors for at least three engagements, the candidate shall provide to the Board a written, sworn statement explaining the inability to provide the names and addresses of at least three supervisors, and the names and addresses of three additional references, unrelated~~

Arizona Administrative Register
Notices of Final Rulemaking

to the candidate, at least two of whom shall be registered in the profession in which registration is sought.

- 6.12. A release authorizing the Board to investigate the candidate's education, and experience, credentials, and moral character, and repute;
13. ~~The candidate shall mail Certificate of Experience Record and Reference Forms (see Appendix A—Certificate of Experience Record and Reference Form) to from the candidate's present and past immediate supervisors. The candidate shall also mail provide Certificate of Experience Record and Reference Forms to additional references as required by the Board. Upon receipt by the Board of the completed Certificates from immediate supervisors and references, educational transcripts and other materials required by the Rule, the candidate's application will be evaluated. The candidate shall provide the name, address, and telephone numbers of all references. The candidate shall ensure that completed reference forms are provided to the Board;~~
14. Evidence of successful completion, or waiver by the Board, of the applicable in-training examination. A candidate for professional registration, who has successfully completed an in-training examination in another jurisdiction in the category for which registration is sought equivalent to the examination for that category administered in Arizona, shall submit proof of examination directly from the authority that administered the original examination. A candidate seeking professional registration as an architect or landscape architect may take the in-training examination at the same time as the professional examination. A candidate seeking professional registration as an assayer, engineer, geologist, or land surveyor shall pass the applicable in-training examination prior to admission to the professional examination;
15. An affidavit that the information provided to the Board is accurate, true, and complete.

B.C. ~~A candidate~~ Candidate holding a certificates of qualification issued by 1 of the national registration bodies boards recognized in R4-30-207(B) R4-30-203(B) of these rules shall complete a short form application (see Appendix C—Application—Short Form) and shall arrange to have their the record material forwarded to the Board by the national registration body board. If the forms provided by the national registration body board contain all the information described in A.R.S. § 32-122.01 and Subsection subsection A (B), of this Rule the Board may accept these the forms in lieu of requiring the candidate to furnish the information directly to the Board.

C.D. ~~The Board staff shall review all applications and, if necessary, shall refer completed applications to the appropriate committee an advisory committee for evaluation. If the application is complete and in the proper form and the Board staff or committee is satisfied that all statements on the application are true and that the candidate is eligible in all other aspects to be registered in the field for which the application was filed, the Board staff or committee shall recommend that the Board certify the candidate as eligible to take the examination, or if exempt from examination pursuant to the Aet statute or rule, as eligible for registration. If for any reason the Board staff or committee is not satisfied that all of the statements on the application are true or that the candidate is eligible in all respects for examination or registration, the Board staff shall make a further investigation shall be made of the candidate. The Board staff and committee shall submit recommendations shall be submitted to the Board for approval.~~

The Board may also require a candidate to submit additional oral or written information if the candidate has not furnished satisfactory evidence of qualifications for examination or registration.

- D.E.** ~~The Board may permit an applicant who has successfully satisfied the requirements of an intern development program approved by the Board to qualify for an appropriate examination.~~
- E.** ~~A candidate for professional registration shall be admitted to the next examination if the required education and experience requirement can be met by the examination date. The candidate shall provide written verification of satisfactory experience or transcripts showing successful completion of educational requirements before registration shall be granted.~~

R4-3-203, R4-30-202. Applications for in-training programs In-training Designation

- A.** A candidate for in-training designation shall submit the following application package to the Board:
1. An original and 1 copy of a completed application;
 2. Evidence of successful completion, or waiver by the Board, of the current in-training examination in the category and branch, if applicable, for which in-training designation is sought;
 3. The information set forth in subsections (B)(1) through (9); and
 4. The applicable fee.
- B.** An in-training candidate who wants to sit for an in-training examination shall submit to the Board an original and 1 copy of a completed application for in-training designation, providing the following information:
1. Name; residence address, telephone number, and facsimile number; and current or school address, telephone number, and facsimile number, if different from residence, of the candidate;
 2. Date of birth and social security number of the candidate;
 3. Citizenship or legal residence;
 4. Category, and branch of engineering if applicable, for which the candidate is seeking an in-training designation;
 5. Information regarding any conviction for a felony or misdemeanor, other than a minor traffic violation, and any alias or other name used by the candidate;
 6. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university, or educational institution that the candidate attended;
 7. Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution that the candidate attended;
 8. A release authorizing the Board to investigate the candidate's education, experience, moral character, and repute;
 9. An affidavit that the information provided to the Board is accurate, true, and complete.
- B.C.** ~~If otherwise qualified, the Board shall permit a candidates for in-training programs designation shall be permitted to take the in-training examination in the final 360 days year of a baccalaureate, masters, or other degree program accepted by the Board and accredited in the category for which the application is made. The candidate shall have the application form endorsed by the candidate's college dean or faculty advisor or, if already a graduate, may arrange in-lieu of the endorsement to have a final transcript, indicating the degree~~

Notices of Final Rulemaking

awarded, sent directly from the registrar to the Board, in lieu of the endorsement.

C-D. The Board shall permit a ~~C~~andidates for in-training programs designation without an accredited college degrees shall be permitted to take the in-training examination after submitting to the Board specific evidence of ~~four~~ 4 years, or if an architect-in-training candidate, ~~five~~ 5 years of satisfactory experience or education or both, of a character satisfactory to the Board. The candidate shall provide the name, current address, telephone number, and facsimile number of all current and former employers; names of all supervisors and their titles; dates of employment; candidate's title; and a description of the work performed. The candidate shall have the application form endorsed by the current employer. The candidate shall provide Certificate of Experience Record and Reference Forms (see Appendix B) to immediate supervisors at present and past employers. The candidate shall ensure that the completed reference forms are submitted to the Board. The candidate shall meet all other requirements of this Section, have transcripts sent directly to the Board from the registrar to the Board for any educational credit claimed.

D. Candidates for in-training certification shall verify all educational experience by having certified transcripts sent directly from the registrar to the Board before in-training certification shall be granted.

**R4-30-207R4-30-203. Registration without examination
Waiver of Examination**

A. The Board shall grant a waiver of the professional examination requirement in A.R.S. §§ 32-122.01 and R4-30-201 to a candidate for professional registration who holds a valid registration and is in good standing in another state, jurisdiction, territory, or country may be granted registration without examination provided:

1. The candidate submits evidence acceptable verifiable documentation to the Board that the education, experience, and examination requirements under which the candidate was registered in the original jurisdiction were substantially identical to those existing in Arizona at the time of the candidate's original registration; or
2. The candidate submits evidence acceptable verifiable documentation to the Board that the candidate has been actively engaged as a professional registrant in another state, jurisdiction, territory, or county for at least ten 10 years in the profession in category for which registration is sought. For purposes of this Paragraph subsection, "actively engaged as a professional registrant" shall mean that the candidate both holds a valid registration in good standing, and has been practicing or offering professional services for the most recent ten-year period in that state, jurisdiction, territory or county, at least 10 of the last 15 years.

B. The Board shall grant a waiver of the professional examination requirement in A.R.S. § 32-122.01 and R4-30-201 to a candidate for professional registration who submits evidence acceptable verifiable documentation to the Board that the candidate meets all of the criteria in Section A, Paragraph 1 of this Rule and holds 1 of the following qualifications professional records, issued by a national bureau of registration body, and is registered in good standing in another state or jurisdiction, may be granted registration in that profession without further examination requirement set forth in A.R.S. § 32-122.01 and R4-30-201 of these rules. The Board recognizes the following national registration body records:

1. National Council of Architectural Registration Boards Certificate Record, with design and seismic (lateral forces) qualifications;
 2. National Council of Examiners for Engineers and Surveyors Council Record; or
 3. Council of Landscape Architectural Registration Boards Council Record and Certification.
- C.** When reviewing an engineering candidate's experience and examination information, the Board shall take into account the specific branch of engineering in which the candidate is seeking proficiency recognition.
- C.** In the case of candidates applying for registration under the provisions of Section A, of this Rule, "evidence acceptable to the Board" shall mean a completed Board application as shown in Appendix A and registration documentation forwarded directly to the Board from the registering authority.
- D.** In the case of candidates applying for registration under the provisions of Section B, of this Rule, "evidence acceptable to the Board" shall mean:
1. A completed short form application as shown in Appendix C;
 2. Documentation from the certifying agency verifying the candidate has taken and successfully completed a national examination recognized by the Board, in the category in which registration is sought; and
 3. Documentation from the certifying agency that verifies the candidate's employment history and education.
- D.** The Board shall waive the in-training examination if a candidate has successfully completed an in-training examination in another jurisdiction in the category for which registration is sought, which is equivalent to those examinations administered in Arizona. The candidate shall ensure that proof of successful completion is forwarded directly from the authority that administered the original examination.
- E.** The Board shall waive the in-training examination for a candidate who has a degree listed in Section A, of Rule R4-30-208(A) or other educational credit approved by the Board in the category, and branch if applicable, in for which registration is sought, and meets all other requirements of A.R.S. § 32-126C, 32-126(C).
- F.** All candidates who request a waiver of any examination requirement shall meet all other requirements for professional registration or in-training designation set forth in R4-30-201 and R4-30-202. A candidate applying for a waiver under subsection (B) of this section shall ensure that the required documentation is forwarded directly to the Board from the national registration body.

R4-30-204. Examinations; Examination; general

A. All examinations shall be given at the times and places determined by the Board. Once the Board approves a candidate to sit for any examination, the candidate shall communicate all questions and concerns regarding extensions and refunds to the applicable testing agency. The candidate shall make any request for additional time or other special test accommodation to the Board within a reasonable time before the test date. The Board shall not refund any examination fee paid to a testing agency. The Board shall publicly announce the exact date and time for an examination at least 180 days prior to the scheduled examination date. Applications for professional registration shall be filed with the Board at least 120 days prior to the date of the professional examination. Applications for in-training registration shall be filed with the Board at least 90 days prior to the date of the examination. All transcripts, Certificates of Experience and other materials required shall be received by the Board at least 60 days prior

Arizona Administrative Register
Notices of Final Rulemaking

to the examination date. Applications or materials received after the cutoff dates shall be processed for the next scheduled examination.

- B.** A candidate for professional registration as an engineer, assayer, geologist, or land surveyor shall pass the in-training examination before being admitted to the professional examination.
- C.** When a candidate has been authorized to sit for an examination and has paid the proper fee but is unable to take the first scheduled examination or re-examination, the candidate may deliver a written request to the Board before the examination date seeking an extension permitting the candidate to take the next scheduled examination. Neither a request for an extension beyond the next scheduled examination nor an untimely extension request shall be considered except for hardship reasons, such as serious illness or unavoidable absence from the country.
- D.** Admittance to the examination shall be denied by the Board for any of the following reasons:
1. If the examination or re-examination fee is not received on or before the specified date.
 2. If the candidate does not appear for the first scheduled examination or re-examination without an extension.
 3. If a candidate does not appear for the examination or the re-examination to which the candidate was granted an extension.
 4. If a candidate fails to complete successfully all parts of the examination or examination to which the candidate is admitted within five years after first taking any part of the examination or examinations.
 5. If a candidate fails to comply with any of the provisions of the Act or this Chapter concerning applications.
- E.B.** A candidate who fails to achieve a passing grade on any division of any examination may apply for request re-examination by notifying the Board in writing of the candidate's desire to re-take the examination and paying the appropriate examination fee. A candidate who re-takes any examination shall advise the Board of any changes in the information provided under R4-30-201(B) and R4-30-202(B) within 30 days from the date of the change. The Board shall close a candidate's file if the Board does not receive written confirmation from the candidate of the candidate's desire to re-take the examination within 1 year from the request for re-examination. A candidate whose file has been closed and who later wishes to apply for professional registration shall submit a new application package to the Board pursuant to R4-30-201 and R4-30-202.
- C.** A candidate who has failed any division of an examination shall be examined re-examined only on the division failed. The Board shall deny a candidate's application, if a candidate fails to pass all divisions of the an examination within five 5 years after 1st taking any division of the an examination, the candidate's application shall be denied. The candidate may then shall submit a new application, and shall retake and pass all of the required those divisions of the examination, except the in-training examination, whose results are 5 or more years old, within five years after first retaking any division of the examination.
- F.D.** A candidate who wishes Candidates desiring to review of their the candidate's examination scores shall file a written request with the Board within 30 days after receiving notification of the failing grade. The candidate Candidates may review an examination by making prior arrangements with the staff and paying the appropriate applicable fee. The candidate shall complete any review. All reviews must be com-

pleted within 60 days of the request for a review notification of a failing grade. In reviewing multiple choice questions, a candidate may review only those questions that were incorrect.

- E.** A candidate who desires a regrade of an examination shall file a written request with the Board within 30 days after receiving notification of the failing grade or within 30 days after reviewing the examination, whichever is applicable, and pay the applicable fee. The candidate shall identify the questions to be reviewed. The candidate shall state why a review of the item is justified. The candidate shall provide specific facts, data, and references to support any assertion that the solution deserves more credit. The Board shall determine whether it will re-grade the examination or whether it will send the examination to the applicable testing agency for re-grading.
- GF.** If an applicant a candidate does not have the required education and experience, the Board may hold the application for a period of time not exceeding one 1 year upon request of the applicant candidate. All time-frames adopted pursuant to Title 41, Chapter 6, Article 7.1 are suspended during the above-referenced time.
- H.G.** An applicant A candidate may withdraw an application for registration or designation by written request to the Board. An approved withdrawal shall be considered a denial of an application, with neither prejudice nor refund of fee. Any fee paid by the candidate is non-refundable. If a candidate withdraws an application, the Board shall close the file. A candidate whose file has been closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package to the Board pursuant to R4-30-201 and R4-30-202.
- R4-30-206. Admission to the professional examination; out-of-state candidates with in-training status**
A candidate for registration who has successfully completes an in-training examination in another jurisdiction in the profession in which registration is sought, which is equivalent to those examinations administered in Arizona, will be admitted to take the professional examination. Proof of examination must be forwarded directly from the authority which administered the original examination. A candidate shall comply with all the education and experience requirements relating to the profession for which registration is sought.
- R4-30-209. Time-frames for Professional Registration or In-training Designation**
- A.** Within 60 days of receiving the initial application package for professional registration or in-training designation, the Board shall finish an administrative completeness review.
1. If the application package is complete, the Board shall notify the candidate that the package is complete and that the administrative completeness review is finished.
 2. If the application package is incomplete, the Board shall notify the candidate that the package is deficient and specify the information or documentation that is missing. All time-frames are suspended from the date the notice is mailed to the candidate until the Board receives all missing information or documentation.
 3. A candidate with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the candidate fails to supply the missing information or documentation, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been

Arizona Administrative Register
Notices of Final Rulemaking

closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package and pay the applicable fee.

4. If a candidate requests to sit for the professional or in-training examination, the time-frames in R4-30-210 apply until the Board grants or denies the candidate's request to sit for the examination.
5. If a candidate requests a waiver of examination under R4-30-203, the time-frames in R4-30-211 apply until the Board grants or denies the waiver of examination.

B. The Board shall complete its substantive review of the application package and render a decision no later than 60 days after the date the Board mails the notice of administrative completeness to the candidate.

1. If the Board finds that the candidate meets all requirements in statute and rule, the Board shall approve the candidate for professional registration or in-training designation.
2. If the Board finds that the candidate does not meet all requirements in statute and rule, the Board shall deny the candidate professional registration or in-training designation. The Board shall provide written notice of the denial. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the candidate's right to appeal, including the number of days the candidate has to file an appeal, and the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
3. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request specifying the additional information and documentation to be submitted and the deadline for submission. The time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is served until the date that all missing information or documentation is received.
4. When the Board and candidate mutually agree in writing, the Board or its designee shall grant extensions of the substantive review time-frame totaling no more than 30 days.
5. If the candidate fails to supply the missing information or documentation by the deadline date, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package and pay the applicable fee.

C. Saturdays, Sundays and legal holidays are not counted in calculating the number of days under this Section. A candidate is served by the Board when the Board mails the notice by regular mail.

D. For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for a candidate applying for professional registration or in-training designation:

1. Administrative completeness review time-frame: 60 days;
2. Substantive review time-frame: 60 days; and
3. Overall time-frame: 120 days.

R4-30-210. Time-frames for Approval to Sit for the Professional or In-training Examination

A. Within 60 days of receiving the initial application package to sit for the professional or in-training examination, the Board shall finish an administrative completeness review.

1. If the application package is complete, the Board shall notify the candidate that the package is complete and that the administrative completeness review is finished.
2. If the application package is incomplete, the Board shall notify the candidate that the package is deficient and specify the information or documentation that is missing. All time-frames are suspended from the date the notice is mailed to the candidate until the Board receives all missing information or documentation.
3. A candidate with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the candidate fails to supply the missing information or documentation, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to sit for the in-training or professional examination shall submit a new application package and pay the applicable fee.

B. The Board shall complete its substantive review of the application package and render a decision no later than 120 days after the date the Board mails the notice of administrative completeness to the candidate.

1. If the Board finds that the candidate meets all requirements in statute and rule, the Board shall approve the candidate to sit for the next available in-training or professional examination.
2. If the Board finds that the candidate does not meet all requirements in statute and rule, the Board shall not allow the candidate to sit for the in-training or professional examination. The Board shall provide written notice of its refusal to allow the candidate to sit for the examination. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the candidate's right to appeal, including the number of days the candidate has to file an appeal, and the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
3. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request specifying the additional information or documentation to be submitted and the deadline for submission. The time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is served until the date that all missing information or documentation is received.
4. When the Board and candidate mutually agree in writing, the Board or its designee shall grant extensions of the substantive review time-frame totaling no more than 45 days.
5. If the candidate fails to supply the missing information or documentation by the deadline date, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to sit for the in-training or professional examination shall submit a new application package and pay the applicable fee.

Notices of Final Rulemaking

- C. Saturdays, Sundays and legal holidays are not counted in calculating the number of days under this Section. A candidate is served by the Board when the Board mails the notice by regular mail.
- D. For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for a candidate wishing to sit for either the in-training or professional examination:
 - 1. Administrative completeness review time-frame: 60 days;
 - 2. Substantive review time-frame: 120 days; and
 - 3. Overall time-frame: 180 days.

R4-30-211. Time-frames for Waiver of the Professional or In-training Examination

- A. Within 60 days of receiving the initial application package for a waiver of the professional or in-training examination, the Board shall finish an administrative completeness review.
 - 1. If the application package is complete, the Board shall notify the candidate that the package is complete and that the administrative completeness review is finished.
 - 2. If the application package is incomplete, the Board shall notify the candidate that the package is deficient and specify the information or documentation that is missing. All time-frames are suspended from the date the notice is mailed to the candidate until the Board receives all missing information or documentation.
 - 3. A candidate with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the candidate fails to supply the missing information or documentation, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package and pay the applicable fee.
- B. The Board shall complete its substantive review of the application package and render a decision no later than 120 days after the date the Board mails the notice of administrative completeness to the candidate.
 - 1. If the Board finds that the candidate meets all requirements in statute and rule, the Board shall waive the professional or in-training examination requirement for the candidate.
 - 2. If the Board finds that the candidate does not meet all requirements in statute and rule, the Board shall deny

the waiver. The Board may allow the candidate to sit for the professional or in-training examination, or the Board may require the candidate to submit an application to sit for the professional or in-training examination. The Board shall provide written notice of the denial. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the candidate's right to appeal, including the number of days the candidate has to file an appeal, the name and telephone number of a Board contact person who will answer questions regarding the appeals process.

- 3. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information or documentation to be submitted and the deadline for submission. The time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is served until the date that all missing information or documentation is received.
- 4. When the Board and candidate mutually agree in writing, the Board or its designee shall grant extensions of the substantive review time-frame totaling no more than 45 days.
- 5. If the candidate fails to supply the missing information or documentation by the deadline date, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package and pay the applicable fee.
- C. Saturdays, Sundays and legal holidays are not counted in calculating the number of days under this Section. A candidate is served by the Board when the Board mails the notice by regular mail.
- D. For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for a candidate requesting a waiver of the professional or in-training examination:
 - 1. Administrative completeness review time-frame: 60 days;
 - 2. Substantive review time-frame: 120 days; and
 - 3. Overall time-frame: 180 days.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 39. STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION

PREAMBLE

- | | |
|---|---|
| <ul style="list-style-type: none"> 1. <u>Sections Affected</u>
R4-39-201 2. <u>The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u>
Authorizing Statute: A.R.S. § 32-3004
Implementing Statute: A.R.S. § 32-3027 | <p><u>Rulemaking Action</u>
Amend</p> |
|---|---|

Notices of Final Rulemaking

3. The effective date for the rules if different from the date the rules are filed with the Office:

November 6, 1998.

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 3 A.A.R. 3297, November 21, 1997.
Notice of Proposed Rulemaking: 4 A.A.R. 1835, July 17, 1998.

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Teri Candelaria, Executive Director
Address: Arizona State Board for Private Postsecondary Education
1400 West Washington, Room 260
Phoenix, Arizona 85007
Telephone: (602) 542-5709
Fax: (602) 542-1253

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The rule is being amended to increase fees that were changed in statute in 1996.

7. A reference to any study that the agency proposed to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The preliminary summary of the economic, small business, and consumer impact:

Current licensees of the Arizona State Board for Private Postsecondary Education will bear the costs of the increased license renewal fees and supplemental license fees. The application for an original license remains the same.

As a 90/10 board, the board and the State of Arizona will benefit because the increase in fees will generate additional revenue. The additional funds will enable the board to increase its regulatory effectiveness. As a result, current licensees and their students will also benefit from the board's increased effectiveness.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:

The rules in the final rulemaking package have been changed from the text of rules in the Notice of Proposed Rulemaking as a result of revisions suggested by staff of the Governor's Regulatory Review Council.

The changes are primarily technical in nature and to conform to current rule drafting style. The changes make the rule more clear, concise, and understandable.

The following change was made to correct a typographical error:

R4-39-201(A)(3): Changed from "\$250,000/4999,999 gross tuition revenue," to read \$250,000/499,999 gross tuition revenue.

11. A summary of the principal comments and the agency response to them:

The board did not receive any written or oral comments.

12. Any other matter prescribed by statute that are applicable to the specific agency or to any specific agency or to any specific rule or class of rules:

Not applicable.

13. Incorporations by reference and their location in the rules:

Not applicable.

14. Whether the rule was previously adopted as an emergency rule and, if so, whether the text was changed between adoption as an emergency and the adoption of these final rules:

Not applicable.

15. The text of the rules follows:

Arizona Administrative Register
Notices of Final Rulemaking

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 39. STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION

ARTICLE 2. FEES

Section
R4-39-201. Fees

ARTICLE 2. FEES

R4-39-201. Fees

A. The filing fee for an original private vocational program license or license to operate private vocational or degree-granting programs is to grant degrees shall be \$800.00.

B. Annual renewal fee for an applicant shall be the following amount for an applicant with the following annual gross tuition revenue: The annual filing fee for a license renewal to continue to operate private vocational or degree-granting programs is the following amount based upon annual gross tuition revenues:

1. Less than \$10,000 annual gross tuition revenue, \$250.00
2. \$10,000/\$24,999 annual gross tuition revenue, \$450.00
3. \$25,000/\$99,999 annual gross tuition revenue, \$550.00.
4. \$100,000/\$249,999 annual gross tuition revenue, \$600.00.
5. \$250,000/\$499,999 annual gross tuition revenue, \$750.00.
6. \$500,000/\$999,999 annual gross tuition revenue, \$1,000.00.
7. \$1,000,000/\$2,499,999 annual gross tuition revenue, \$1,300.00
8. \$2,500,000/\$6,999,999 annual gross tuition revenue, \$1,550.00.
9. \$7,000,000 or more annual gross tuition revenue, \$1,800.00.
1. Less than \$50,000 annual gross tuition revenue, \$600.00.
2. \$50,000/\$249,999 annual gross tuition revenue, \$750.00.
3. \$250,000/499,999 annual gross tuition revenue, \$1,000.00.

4. \$500,000/\$999,999 annual gross tuition revenue, \$1,300.00.

5. \$1,000,000/\$2,499,999 annual gross tuition revenue, \$1,650.00.

6. \$2,500,000/\$6,999,999 annual gross tuition revenue, \$2,000.00.

7. \$7,000,000 or more annual gross tuition revenue, \$2,300.00.

~~C.B.~~ The filing fee for each application for a supplemental license to operate Supplemental application fee for licensure of new or additional private vocational programs or degree-granting programs is \$500.00, \$300.00.

~~D.C~~ The filing fee for each application for a supplemental license to operate private vocational or degree-granting programs from a new location or an additional location is \$500.00. Supplemental application fee for licensure of additional locations or a change of location, \$300.00.

~~E.D.~~ The filing fee for an application for a supplemental license to continue to operate private vocational or degree-granting programs upon a change of ownership is \$500.00. Supplemental application fee for a change in ownership of an educational institution offering private vocational programs or granting degrees, \$300.00.

~~F.E.~~ The fee for an on-site verification, inspection, or investigation is the actual cost incurred or \$500.00, whichever is less. The filing fee for an on-site verification and inspection shall be individually approved by the board and shall be the actual cost incurred by the board as a direct result of conducting the on-site verification/inspection up to, \$150.00.

~~F.~~ Filing fee for an original agent license if the agent is employed by an educational institution that has a physical location in this state, \$50.00.

~~G.~~ Filing fee for an original agent license if the agent is employed by an educational institution that does not have physical facilities in this state, \$100.00.

~~H.~~ Annual renewal fee for agent license, \$30.00.